

# **Board of Contract Appeals**

General Services Administration  
Washington, D.C. 20405

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September 22, 2005

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GSBCA 16707-RELO

In the Matter of DAVID M. DAWOOD

David M. Dawood, Annapolis Junction, MD, Claimant.

Brenda Mixon, Chief, Travel Division, Finance Center, United States Army Corps of Engineers, Department of the Army, Millington, TN, appearing for Department of the Army.

**DeGRAFF**, Board Judge.

Regulations permit no exception to the requirement that a transferred employee's old and new duty stations must be at least fifty miles apart in order for an agency to reimburse the employee's temporary quarters subsistence expenses. However, when an agency mistakenly authorizes reimbursement and advances funds to cover such expenses, it can consider waiving repayment of the advance.

## Background

In late 2004, the United States Army Corps of Engineers transferred David M. Dawood from one permanent duty station to another. In connection with the transfer, the Corps authorized Mr. Dawood to incur sixty days of temporary quarters subsistence expenses (TQSE) and issued him an advance of \$2184. The Corps subsequently extended Mr. Dawood's TQSE period by an added sixty days.

Mr. Dawood spent approximately seventy days in temporary quarters. When he submitted a claim for reimbursement of his TQSE, the Corps determined Mr. Dawood was

not eligible for reimbursement because his old and new duty stations were less than fifty miles apart. When the Corps denied the claim, Mr. Dawood submitted it to us for review.

### Discussion

When a federal agency transfers a civilian employee from one permanent duty station to another, it may choose to reimburse the employee for TQSE. Eligibility for reimbursement is governed by the Federal Travel Regulation, which applies to all civilian employees, and the Joint Travel Regulations (JTR), which apply to civilian employees of the Department of Defense. As in effect when Mr. Dawood transferred, both sets of regulations provided an employee was eligible for reimbursement of TQSE if the old and new permanent duty stations were fifty miles or more apart as measured by a map distance along a usually traveled surface route. 41 CFR 302-6.4 (2004); JTR C13115-A.3. According to [www.mapquest.com](http://www.mapquest.com), Mr. Dawood's old and new duty stations are less than fifty miles apart, just as the Corps says. Mr. Dawood does not dispute this fact.

We recently considered a similar claim submitted by another Corps employee. In *Virgil G. Hobbs III*, GSBCA 16625-RELO (Sept. 15, 2005), as here, the Corps led an employee to believe he would be reimbursed for TQSE and the employee incurred a large expense in reliance upon the Corps' mistaken authorization. As we explained in *Hobbs*, the regulations which govern eligibility for the reimbursement of TQSE do not permit any exception to be made to the requirement that the two permanent duty stations must be at least fifty miles apart. Several years ago, we reached a similar result in resolving the claim of another Department of Defense employee. *Lawrence M. Cason*, GSBCA 15246-RELO, 00-1 BCA ¶ 30,883.

The Corps correctly decided not to reimburse Mr. Dawood for his TQSE. The regulations do not permit the Corps to pay his claim because his old and new duty stations were less than fifty miles apart. Although Mr. Dawood no doubt relied upon the authorization he received from the Corps before he entered into temporary quarters, erroneous advice and actions by agency officials do not create the authority for the Corps to spend public funds in a way not authorized by the regulations. *Richard P. Crane*, GSBCA 15782-RELO, 02-2 BCA ¶ 31,996.

We are not sure what the Corps intends to do about the \$2184 it advanced to Mr. Dawood. As we pointed out in *Hobbs*, the agency can consider waiving repayment of this amount. Other Department of Defense agencies have waived repayment of advances when they later determined the employees were not eligible for TQSE. *Jerome A. Dosdall*, GSBCA 16244-RELO, 04-1 BCA ¶ 32,464 (2003); *Cason*. If the Corps is considering

whether it ought to collect the advance from Mr. Dawood, it might also want to consider whether this is an appropriate case for waiver.

We deny the claim.

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MARTHA H. DeGRAFF  
Board Judge